

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

SHIRLEY L. SMITH,	:	
	:	
Plaintiff,	:	CIVIL NO. 2002-227 (STT)
	:	
v.	:	
	:	
VIRGIN ISLANDS PORT	:	
AUTHORITY, et al.,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this 29th day of August, 2008, upon consideration of (1) Defendants Virgin Islands Port Authority (“VIPA”) and VIPA Governing Board’s (hereinafter “Governing Board”) Motion to Dismiss or, In the Alternative, Motion for Summary Judgment (Doc. Nos. 171 & 172) regarding Plaintiff Shirley L. Smith’s claims under the Family Medical Leave Act (“FMLA”), 29 U.S.C. § 2601, et seq., as asserted in Count VII of Plaintiff’s Second Amended Complaint; (2) pro se Plaintiff’s Opposition to Defendants’ Motion to Dismiss and Defendants’ Motion for Summary Judgment on FMLA Claims and Cross Motion for Partial Summary Judgment (Doc. No. 151) with respect her claims pursuant to the FMLA (Count VII), for breach of contract (Count I), pursuant to the Virgin Islands Donated Leave Program, 3 V.I.C. § 583b, (Count V), and for intentional discrimination and retaliation in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., (Count IV); and (3) Defendants’ Reply and Motion to Strike Plaintiff’s Cross Motion for Partial Summary Judgment (Doc. No. 173), it is hereby ORDERED as follows:

1. Defendants’ Motion to Strike Plaintiff’s Cross Motion for Partial Summary

Judgment (Doc. No. 173) is DENIED.

2. Plaintiff's cross-motion for summary judgment (Doc. No. 151) with respect to her claims for intentional discrimination and retaliation in violation of Title VII (Count IV) is addressed in a separate Order of this date on Plaintiff's Title VII claims, and is DENIED therein.
3. Plaintiff's cross-motion for summary judgment (Doc. No. 151) with respect to her breach of contract claim (Count I) and Title 3 V.I.C. § 583b claim (Count V) is DENIED WITHOUT PREJUDICE to motion refiling and full briefing on those claims only, for the reasons stated in the attached Memorandum.
4. Defendants' Motion to Dismiss or, In the Alternative, Motion for Summary Judgment regarding Plaintiff's FMLA claims (Doc. Nos. 171 & 172) and Plaintiff's Cross Motion for Partial Summary Judgment (Doc. No. 151) with respect to her FMLA claims are both DENIED for the reasons stated in the attached Memorandum.

S/ James T. Giles

HONORABLE JAMES T. GILES
UNITED STATES DISTRICT JUDGE
(Sitting By Designation)